

**From:** John Ousterhout  
**To:** Microsoft ATR  
**Date:** 1/23/02 11:58am  
**Subject:** Microsoft Settlement

I am writing this message as part of the "public comments" on the proposed Microsoft antitrust settlement.

The proposed settlement is not in the public interest and must be rejected. It neither corrects the damage that has resulted from Microsoft's abuse of its monopoly position, nor does it provide effective measures to restrain Microsoft from future abuses.

In considering this proposed settlement, please consider Microsoft's past behavior. Microsoft is a ruthless organization that will exploit every opportunity and loophole, legal or otherwise, to gain advantage. The company is utterly unrepentant about its past illegal behavior and has that behavior wired into its corporate genes; I doubt that the company could change its behavior even if it wanted to (which it doesn't). Therefore, it will require exceptional measures to prevent abuses in the future; the measures in the proposed settlement are nowhere near strong enough to restrain a company like Microsoft. For example, the technical committee has its no teeth whatsoever; it can't even go public with its findings!

Imagine a similar case in the criminal domain, with a similar settlement. A gang of criminals has robbed a series of banks, making away with millions of dollars before eventually being apprehended. After an extended trial, the criminals are found guilty. Then, before the sentencing hearing, the prosecutor agrees to a settlement: no jail time for the criminals and they get to keep all the money they stole. However, they do promise not to rob any more banks, and they also agree to the formation of a "technical committee", which will follow the gang around to make sure they don't rob any more banks. However, the technical committee is not allowed to say anything in public if they see that the gang has indeed started robbing banks again. Would such a settlement be considered to be in the public interest? No way! And the proposed Microsoft settlement shouldn't be either.

I believe that the proposed settlement would actually encourage Microsoft to engage in unlawful activities in the future, because the penalty for the unlawful activity is minuscule compared to the business benefits derived from the unlawful behavior.

What has really happened here is that Microsoft has worn down its opponents to the point where they lost their will to proceed (and the Bush administration had no interest in this case anyway). This is exactly the sort of situation where we depend on a strong judiciary to stand up

for the public interest and make sure that justice is done. Please do the right thing and reject this appalling settlement.